

JS 44 (Rev. 08/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MGA Entertainment, Inc. a California Corporation

DEFENDANTS

Giantex, Inc., a California corporation; Does 1-10 inclusive

(b) County of Residence of First Listed Plaintiff Los Angeles

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant San Bernardino

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Benjamin C. Johnson (SBN 218518)

16380 Roscoe Blvd, Suite 102

Van Nuys, CA 91406; 818-894-2525

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC 1125(a), i.e., Section 43(a) of the Lanham Act

Brief description of cause:

False Designation of Origin; False or Misleading Description or Misrepresentation of Fact

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/23/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 5:17-cv-1263

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

1 BENJAMIN C. JOHNSON (SBN: 218518)
2 benjamin.johnson@mgae.com
3 MGA ENTERTAINMENT, INC.
4 16380 Roscoe Blvd, Suite 102
5 Van Nuys, CA 91406
6 Telephone: (818) 894-2525
7 Fax: (818) 895-0771

8 Attorneys for Plaintiff
9 MGA Entertainment, Inc.

10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12
13 MGA ENTERTAINMENT, INC. a
14 California corporation,

15 Plaintiff,

16 vs.

17
18 GIANTEX INC., a California
19 corporation; and DOES 1-10 inclusive,

20 Defendants.

Case No. 5:17-cv-1263

COMPLAINT FOR:

- 21 1. FALSE DESIGNATION OF
22 ORIGIN;
- 23 2. FALSE OR MISLEADING
24 DESCRIPTION OR
25 MISREPRESENTATION OF FACT;
- 26 3. FEDERAL UNFAIR
27 COMPETITION;
- 28 4. STATE LAW UNFAIR
COMPETITION;
5. STATE LAW FALSE AND
MISLEADING STATEMENTS
6. COMMON LAW TRADE DRESS
INFRINGEMENT
7. COMMON LAW "PASSING OFF"

1 Plaintiff, MGA ENTERTAINMENT, INC. ("MGA," or "Plaintiff") for its complaint
 2 against defendants GIANTEX INC., and DOES 1 through 10 ("GIANTEX" or "Defendants"),
 3 herein alleges as follows:

4 INTRODUCTION

5 1. This is a civil action for false designation of origin under Section 43(a) of the
 6 Lanham Act (15 U.S.C. §1125(a)), false or misleading description or misrepresentation of
 7 fact under the Lanham Act, federal unfair competition under the Lanham Act, state law
 8 unfair competition under Cal . Bus. & Prof. Code § 17200 et seq., state law false and
 9 misleading statements under Cal. Bus & Prof. Code § 17500, and common law trade dress
 10 infringement and "passing off." The Plaintiff is a leading global consumer products
 11 company, and the exclusive owner of the Little Tikes® trademark. Among other toy
 12 products, Little Tikes® manufactures the best-selling "Jump N Slide Bouncer," and the "7"
 13 indoor/outdoor Trampoline w/ Enclosure." GIANTEX, and Does 1 through 5, business
 14 entities of unknown nature, and Does 6 through 10, unidentified individuals (collectively
 15 "Defendants"), are actively and intentionally manufacturing similar products to look
 16 virtually identical to Little Tikes® products in an effort to mislead and confuse prospective
 17 purchasers. Upon information and belief, Defendants' actions are part of a deliberate attempt
 18 to divert sales away from Plaintiff, a market leader in its products. Defendants' actions will
 19 continue unless and until enjoined by this Court.

21 PARTIES

22 2. Plaintiff MGA ENTERTAINMENT, INC., is a California corporation, having
 23 an address and principal place of business at 16380 Roscoe Blvd., Suite 102, Van Nuys,
 24 California. The Little Tikes Company, an Ohio corporation, is owner of the Little Tikes®
 25 trademarks, and a wholly owned subsidiary of MGA.

26 3. Defendant GIANTEX INC. is a California corporation having an address and
 27 principal place of business at 1670 Etiwanda Ave., Unit B-104, Ontario, California. Upon
 28 information and belief GIANTEX is doing business as Costway at website

1 www.costway.com.

2 4. MGA is not aware of the true names and capacities of Defendants identified
3 herein as DOES 1 through 10, inclusive, and therefore fictitiously names said Defendants.
4 MGA will amend this Complaint to allege the true names and capacities of these fictitiously
5 named Defendants when their identities are ascertained.

6 5. MGA is informed and believes and, based thereon, alleges that Defendant
7 GIANTEX and each of the fictitiously named DOE Defendants were in some manner
8 responsible for the acts alleged herein and the harm, losses and damages suffered by MGA
9 as alleged hereinafter. MGA is also informed and believes and, based thereon, alleges that
10 while participating in such acts, each Defendant was the agent, principal, and/or alter ego of
11 other Defendants, and was acting in the course and scope of such agency and/or acted with
12 permission, consent, authorization or ratification of the other Defendants.

13 JURISDICTION AND VENUE

14 6. This Court has jurisdiction over the subject matter of this action pursuant to 28
15 U.S.C. §§1331 and 1338, and 15 U.S.C. §1121. The Court has supplemental jurisdiction
16 over the state law and common law claims under 28 U.S.C. §1367(a) and §1338(b). The
17 state claims are substantially related to the federal claims, and form part of the same case
18 and controversy under Article III of the United States Constitution.

19 7. This Court has personal jurisdiction over Defendants by virtue of the fact that
20 GIANTEX maintains its principal place of business in this district, and upon information
21 and belief, the Defendants regularly solicit business in this state, and are committing tortious
22 acts within the state through acts of misrepresentation and unfair competition in this state,
23 said acts being expressly aimed at residents of California. Furthermore, Defendants' tortious
24 actions are causing harm to the reputation of Plaintiff in this district.

25 8. Venue is proper in this District pursuant to 28 U.S.C. §1391 (b) and (c).

26 ALLEGATIONS

27 9. This action arises out of a premeditated and intentional attempt by Defendants
28 to pass off GIANTEX's products as those of MGA.

1 10. Since approximately 1970, Little Tikes® has manufactured, sold, marketed,
2 and promoted Little Tikes® distinctive, brightly colored toys which have become a staple
3 for American children under the age of five; and Little Tikes® is perennially one of the top
4 toy-makers for the pre-school market. Little Tikes® products include the “Jump N Slide
5 Bouncer,” and the “7’ indoor/outdoor Trampoline w/ Enclosure” (the “Products”), each of
6 which are marketed under its registered trademark Little Tikes® and associated trade dress
7 (collectively, the “Marks”). The Products are top sellers for Plaintiff, and are considered
8 important to Plaintiff’s business.

9 11. Plaintiff’s Marks are inherently distinctive to the public, and serve as a
10 designator of origin of its Products.

11 12. Plaintiff’s Little Tikes® mark is protected by U.S. Trademark Registration
12 Nos. 1,055,661; 1,145,515; 2,952,053 and 3,888,577. True and correct copies of the Little
13 Tikes® U.S. Trademark Registrations are attached hereto as Exhibit 1.

14 13. For many years, Plaintiff’s Marks have been incorporated into packaging, and
15 displayed on its Products which are visible to consumers in the marketplace. Plaintiff uses
16 the Marks to promote and identify its products in numerous toy stores and online, at trade
17 shows, and on the Internet at www.littletikes.com, and has created a uniquely recognizable,
18 inherently distinctive, and non-functional presentation and marketing of Little Tikes®
19 products (the “Little Tikes® Trade Dress”).

20 14. As a result of the widespread use and display of the Marks, the public and the
21 trade use them to identify and refer to Little Tikes® Products, and the public and the trade
22 recognize that these Marks refer to high quality products emanating from a single source.
23 The Marks have, accordingly, built up secondary meaning and extensive goodwill.

24 15. The Little Tikes® Trade Dress is designed to attract the attention of consumers
25 viewing preschool toy products online, on store shelves, and in store displays. MGA has
26 expended considerable resources to create and develop its unique Little Tikes® Trade Dress
27 and as a result of MGA’s marketing and promotion of and around the Little Tikes® Trade
28 Dress, Little Tikes® products are recognized as high quality products emanating from, or

1 associated with, MGA.

2 16. Upon information and belief, in 2016 and possibly earlier, Defendants have
3 been marketing and selling virtually identical versions of the Products, but merely without
4 the Little Tikes® label and less expensive, in the same channels as the Products, including
5 on www.walmart.com, and www.amazon.com.

6 17. Defendants specifically copied the design, shape, size and color scheme of the
7 Products in the marketing and sale of their goods in an attempt to capitalize on the goodwill
8 of the Little Tikes® brand and Little Tikes® Trade Dress.

9 18. Defendants' virtual copies of the Products were and are intended to cause
10 confusion, mistake, or deception, in that the public, the trade and others are likely to believe
11 that Defendant's goods are identical to Plaintiff's Products but merely less expensive, or are
12 otherwise affiliated or connected with Plaintiff and its valuable trademarks.

13 19. True and correct copies of photos appearing on www.walmart.com of the
14 Little Tikes® Products and Little Tikes® Trade Dress alongside GIANTEX's infringing
15 products are set out below and the internet webpages are attached hereto as Exhibit 2.



26 GIANTEX Inflatable Mighty Bounce House
27 Jumper Castle Moonwalk
28



Little Tikes® Jump 'n Slide Bouncer



GIANTEX 7FT Trampoline Combo w/
Safety Enclosure Net Indoor/Outdoor
Bouncer Jump Kids



Little Tikes® 7' indoor/outdoor Trampoline with
Enclosure

20. Defendants' actions as alleged have caused, and will continue to cause irreparable harm to Plaintiff and its trademarks, and to the business and substantial goodwill represented thereby, and these acts and damages will continue unless restrained and enjoined by this Court.

COUNT ONE

FALSE DESIGNATION OF ORIGIN

21. Plaintiff realleges the allegations set forth in paragraphs 9 through 20, above, and incorporates them herein by reference.

22. Defendants' acts as alleged constitute false designation of origin in violation of 15 U.S.C. §1125(a), i.e., Section 43(a) of the Lanham Act.

23. As a direct and proximate result of the unlawful acts alleged herein, Plaintiff has and is continuing to suffer damages and Defendants have and will continue to profit and receive other benefits.

///

///

///

COUNT TWO

**FALSE OR MISLEADING DESCRIPTION OR
MISREPRESENTATION OF FACT**

24. Plaintiff realleges the allegations set forth in paragraphs 9 through 20, above, and incorporates them herein by reference.

25. Defendants' acts as alleged constitute false or misleading descriptions and/or misrepresentations of facts in violation of 15 U.S.C. §1125(a), i.e., Section 43(a) of the Lanham Act.

26. As a direct and proximate result of the unlawful acts alleged herein, Plaintiff has and is continuing to suffer damages and Defendants have and will continue to profit and receive other benefits.

COUNT THREE

FEDERAL UNFAIR COMPETITION

27. Plaintiff realleges the allegations set forth in paragraphs 9 through 20, above, and incorporates them herein by reference.

28. Defendants' acts as alleged constitute federal unfair competition in violation of 15 U.S.C. §1125(a), i.e., Section 43(a) of the Lanham Act.

29. As a direct and proximate result of the unlawful acts alleged herein, Plaintiff has and is continuing to suffer damages and Defendants have and will continue to profit and receive other benefits.

COUNT FOUR

STATE UNFAIR COMPETITION

(CAL. BUS. & PROF. CODE §17200 ET SEQ.)

30. Plaintiff realleges the allegations set forth in paragraphs 9 through 20, above, and incorporates them herein by reference.

31. Defendants' wrongful acts constitute unfair competition and unfair or deceptive acts or practices in violation of §17200 et seq. of the California Business and Professions Code.

1 32. As a direct and proximate result of the unlawful acts alleged herein, Plaintiff
2 has and is continuing to suffer damages and Defendants have and will continue to profit and
3 receive other benefits.

4 **COUNT FIVE**

5 **STATE LAW FALSE AND MISLEADING STATEMENTS**

6 **(CAL. BUS. & PROF. CODE §17500)**

7 33. Plaintiff realleges the allegations set forth in paragraphs 9 through 20, above,
8 and incorporates them herein by reference.

9 34. Defendants' wrongful acts constitute false and misleading statements made in
10 an effort to induce others to purchase Defendants' goods in violation of §17500 of the
11 California Business and Professions Code.

12 35. As a direct and proximate result of the unlawful acts alleged herein, Plaintiff
13 has and is continuing to suffer damages and Defendants have and will continue to profit and
14 receive other benefits.

15 **COUNT SIX**

16 **COMMON LAW TRADE DRESS INFRINGEMENT**

17 36. Plaintiff realleges the allegations set forth in paragraphs 9 through 20, above,
18 and incorporates them herein by reference.

19 37. Defendants' conduct as alleged herein constitutes trade dress infringement
20 under the laws of the State of California.

21 38. MGA is informed and believes and, based thereon alleges, that Defendants'
22 conduct was willful and intentional, and that GIANTEX directed and authorized the creation
23 of the GIANTEX infringing products for sale and sale in infringing packaging and trade
24 dress.

25 39. As a direct and proximate result of the unlawful acts alleged herein, Plaintiff
26 has and is continuing to suffer damages and has suffered and will continue to suffer
27 irreparable injury for which Plaintiff has no adequate remedy at law, and Defendants have
28 and will continue to profit and receive other benefits.

COUNT SEVEN

COMMON LAW "PASSING OFF"

40. Plaintiff realleges the allegations set forth in paragraphs 9 through 20, above, and incorporates them herein by reference.

41. Defendants' conduct as alleged herein constitutes "passing off" under the laws of the State of California.

42. MGA is informed and believes and, based thereon alleges, that Defendants' conduct was willful and intentional, and that GIANTEX directed and authorized the creation of the GIANTEX products for sale and sale in packaging and trade dress with the intention of passing off their products as those of MGA.

43. As a direct and proximate result of the unlawful acts alleged herein, Plaintiff has and is continuing to suffer damages and has suffered and will continue to suffer irreparable injury for which Plaintiff has no adequate remedy at law, and Defendants have and will continue to profit and receive other benefits.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for an order of this Court:

A. Granting a preliminary and permanent injunction restraining Defendants, their officers, directors, principals, agents, servants, employees, successors and assigns, and all individuals acting in concert or participation with them, from:

a. Offering for sale, soliciting sales, advertising, or selling any products in any medium under any mark, name, symbol, logo, or other indicia that incorporates or is confusingly similar to Little Tikes® Products and Little Tikes® Trade Dress;

b. Offering for sale, soliciting sales, advertising, or selling any products in any medium under any mark, name, symbol, logo, or other indicia which is likely to cause confusion or to cause mistake or to deceive persons into the erroneous belief that Defendants' products originate from Plaintiff, or that Defendants or their agents are authorized by Plaintiff or are endorsed by Plaintiff or are sponsored by Plaintiff, or are

1 licensed by Plaintiff, or are connected in any way with Plaintiff;

2 c. Using false designations or from engaging in any act or series of acts
3 which, either alone or in combination, constitutes deceptive or unfair methods of
4 competition with Plaintiff and from otherwise interfering with or injuring the goodwill
5 associated with Little Tikes® Products and/or Little Tikes® Trade Dress;

6 B. Awarding Plaintiff a monetary judgment against Defendants for Plaintiff's
7 damages and Defendants' profits pursuant to 15 U.S.C. §1117;

8 C. Trebling the amount of such award on account of Defendants' willful,
9 intentional, and bad faith conduct pursuant to 15 U.S.C. §1117;

10 D. Awarding Plaintiff its reasonable attorneys' fees and disbursements incurred
11 herein, in view of Defendants' intentional and willful misrepresentations, pursuant to 15
12 U.S.C. §1117;

13 E. Awarding Plaintiff the costs of this action;

14 F. Ordering that Defendants deliver to Plaintiff for destruction all infringing
15 products, packaging and any infringing promotional material and advertisements;

16 G. Awarding Plaintiff such other and further relief as the Court may deem just
17 and proper.

18 **DEMAND FOR JURY TRIAL**

19 Plaintiff hereby demands a trial by jury.

20 DATED: June 23, 2017

MGA ENTERTAINMENT, INC.

21
22
23 By: /s/ Benjamin C. Johnson
24 BENJAMIN C. JOHNSON
25 Attorney for Defendant
26 MGA Entertainment, Inc.
27
28

Exhibit 1



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

REGISTRATION NO: 1055661 SERIAL NO: 73/086251 MAILING DATE: 03/28/2007
REGISTRATION DATE: 01/04/1977
MARK: LITTLE TIKES
REGISTRATION OWNER: LITTLE TIKES COMPANY, THE

CORRESPONDENCE ADDRESS:

DAPHNE GRONICH
LITTLE TIKES COMPANY, THE
16380 ROSCOE BOULEVARD
VAN NUYS, CA 91406

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058.

ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.

NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 9 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1059.

ACCORDINGLY, THE REGISTRATION IS RENEWED.

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):

028.

AHMED, DEBORAH Y
PARALEGAL SPECIALIST
POST-REGISTRATION DIVISION
571-272-9500

PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION
CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION

ORIGINAL

REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION

I) SECTION 8: AFFIDAVIT OF CONTINUED USE

The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration.

Failure to file the Section 8 Affidavit will result in the cancellation of the registration.

II) SECTION 9: APPLICATION FOR RENEWAL

The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration.

Failure to file the Application for Renewal will result in the expiration of the registration.

NO FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS WILL BE SENT TO THE REGISTRANT BY THE PATENT AND TRADEMARK OFFICE. IT IS RECOMMENDED THAT THE REGISTRANT CONTACT THE PATENT AND TRADEMARK OFFICE APPROXIMATELY ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.

Int. Cl.: 28

Prior U.S. Cl.: 22

United States Patent and Trademark Office

Reg. No. 1,145,515

Registered Jan. 6, 1981

TRADEMARK
Principal Register



Little Tikes, Inc. (Ohio corporation)
8705 Freeway Dr.
Macedonia, Ohio 44506

For: TOYS AND FURNITURE FOR PRE-SCHOOL, KINDERGARTEN, AND PRIMARY CHILDREN—NAMELY, TOY BOXES, SANDBOXES, CHAIRS, TABLES, RANGES, VANITIES, RIDING TOYS, PULL WAGONS, AND BUILDING BLOCKS, in CLASS 28 (U.S. Cl. 22).

First use Sep. 1974; in commerce Sep. 1974.
Owner of U.S. Reg. No. 1,055,661.

Ser. No. 216,758, filed May 23, 1979.

W. A. CONN, Primary Examiner

Side - 1

**NOTICE OF ACCEPTANCE OF §8
DECLARATION AND §9 RENEWAL
MAILING DATE: Dec 23, 2010**

The declaration and renewal application filed in connection with the registration identified below meets the requirements of Sections 8 and 9 of the Trademark Act, 15 U.S.C. §§1058 and 1059. The declaration is accepted and renewal is granted. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

REG NUMBER: 1145515
MARK: LITTLE TIKES AND DESIGN
OWNER: LITTLE TIKES COMPANY, THE

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

Sam Khare,
LITTLE TIKES COMPANY, THE
16380 ROSCOE BOULEVARD
Legal Dept.
VAN NUYS, CA 91406

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38, and 50

Reg. No. 2,952,053

United States Patent and Trademark Office

Registered May 17, 2005

**TRADEMARK
PRINCIPAL REGISTER**

LITTLE TIKES

LITTLE TIKES COMPANY, THE (OHIO CORPORATION)
29 E. STEPHENSON STREET
FREEPORT, IL 61032

FOR: TOYS AND PLAYTHINGS FOR INFANTS AND CHILDREN, NAMELY, PLUSH AND SOFT SCULPTURE TOYS, CHILDREN'S MULTIPLE ACTIVITY TOYS, ELECTRONIC TEACHING GAMES, NAMELY, BATTERY-OPERATED ACTION TOYS, BOARD GAMES, ACTION SKILL GAMES, HAND-HELD TOYS, TOY SCOOTERS AND SKATEBOARDS, PLAY JEWELRY AND MAKEUP, CHILDREN'S PLAY HOUSES, TOY TELEPHONES, TOY VEHICLES, PUZZLES, DRESS-UP KITS, MUSICAL TOYS; INFLATABLE AND PLASTIC SWIMMING POOLS FOR RECREATIONAL USE; CHILDREN'S INFLATABLE SWIMMING AIDS, NAMELY, INFLATABLE AND RIDE-ON BATH

AND POOL TOYS TOY SANDBOXES; SAND TOYS AND TOOLS; TOY LAWNMOWERS; TOY SPRINKLERS; CHILDREN'S OUTDOOR PLAY EQUIPMENT, NAMELY BALLS, BATS, GOLF CLUBS, SKATES, BASKETBALL, FOOTBALL, SOCCER AND HOCKEY GOALS, BABY SWINGS; CRIB MOBILES; BABY RATTLES; TETHERS FOR ATTACHING TOYS SAFELY TO A CHILD'S WRIST OR CLOTHING, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 5-1-1968; IN COMMERCE 5-1-1968.

SN 76-162,323, FILED 11-9-2000.

CHRISTOPHER BUONGIORNO, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office



Reg. No. 3,888,577

Registered Dec. 14, 2010

Int. Cl.: 28

TRADEMARK

PRINCIPAL REGISTER

THE LITTLE TIKES COMPANY (OHIO CORPORATION)
16380 ROSCOE BOULEVARD
VAN NUYS, CA 91406

FOR: ACTION FIGURES AND PLAYSETS THEREFOR, ACTION SKILL GAMES, BASEBALL TRAINERS IN THE NATURE OF BATTING TEES AND PITCHING MACHINES; BASKETBALLS; BASKETBALL GOALS; BATH TOYS; BOARD GAMES; CHILDREN'S PLAY HOUSES; CHILDREN'S MULTIPLE ACTIVITY TOYS; CHILDREN'S TOY RIDE-ON VEHICLES; DOLLHOUSES; MOBILES FOR CHILDREN; ROLE-PLAY TOYS, NAMELY, TOY KITCHENS, TOY TOOLS, TOY WORKBENCHES AND TOY CASH REGISTERS; TOY SHOPPING CARTS; TOY ANIMALS; TOY MUSICAL INSTRUMENTS, NAMELY, TOY GUITARS, TOY PIANOS, TOY DRUMS AND TOY KEYBOARDS; TOY SPORTS EQUIPMENT, NAMELY, BOWLING BALLS AND PINS, GOLF CLUBS AND BALLS, HOCKEY SETS COMPRISED OF HOCKEY STICKS, PUCKS AND GOALS, BASKETBALL GOALS AND BALLS, AND SOCCER EQUIPMENT IN THE NATURE OF SOCCER BALLS AND GOALS; AND TOY VEHICLES AND PLAYSETS THEREFOR, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 12-31-1992; IN COMMERCE 12-31-1993.

OWNER OF U.S. REG. NOS. 1,145,515, 2,952,053 AND OTHERS.

THE COLOR(S) BLUE, WHITE, RED, YELLOW AND BLACK IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE MARK CONSISTS OF "LITTLE TIKES" IN STYLIZED FONT IN THE COLOR BLUE ON A WHITE FIELD SURROUNDED BY A RED OVAL RACETRACK, ALL ON A YELLOW FIELD. THE WORDING "LITTLE TIKES" AND THE RED OVAL DESIGN ALSO HAVE BLACK SHADOWS.

SER. NO. 77-789,515, FILED 7-24-2009.

NELSON SNYDER, EXAMINING ATTORNEY



David J. Kypas

Director of the United States Patent and Trademark Office

Exhibit 2

Walmart.com browser interface showing the product page for the Little Tikes Jump 'n Slide Bouncer.

Walmart Search Hello, Sign In My Account

Little Tikes Jump 'n Slide Bouncer

1210 reviews Q&A By: Little Tikes Walmart #: 550387925

\$179⁹⁹ Rollback
 Was \$189.99 Save \$10.00

Sold & shipped by **Walmart**






Free shipping
 Arrives within 3-5 days
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Costway Inflatable Mighty Bounce House Jumper Castle Moonwalk Without Blower

★★★★★ Write a review Q&A By: costway



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Little Tikes 7' indoor/outdoor Trampoline with Enclosure

★★★★★ 15 reviews Q&A By: Little Tikes Walmart #: 555656073



\$149.00 Clearance

Was \$179.98 Save \$30.98

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